

## Article 43

### General Regulations of Business-Fire Insurance.

#### **§ 58-43-1. Performance of contracts as to devices not prohibited.**

Nothing contained in Articles 1 through 64 of this Chapter shall be construed as prohibiting the performance of any contract hereafter made for the introduction or installation of automatic sprinklers or other betterments or improvements for reducing the risk by fire or water on any property located in this State, and containing provisions for obtaining insurance against loss or damage by fire or water, for a specified time at a fixed rate; provided, every policy issued under such contract shall be as provided by law. (1929, c. 145, s. 1.)

#### **§ 58-43-5. Limitation as to amount and term; indemnity contracts for difference in actual value and cost of replacement; functional replacement.**

No insurance company or agent shall knowingly issue any fire insurance policy upon property within this State for an amount which, together with any existing insurance thereon, exceeds the fair value of the property, nor for a longer term than seven years: Provided, any fire insurance company authorized to transact business in this State may, by appropriate riders or endorsements or otherwise, provide insurance indemnifying the insured for the difference between the actual value of the insured property at the time any loss or damage occurs, and the amount actually expended to repair, rebuild or replace on the premises described in the policy, or some other location within the State of North Carolina with new materials of like size, kind and quality, property that has been damaged or destroyed by fire or other perils insured against: Provided further, that the Commissioner may approve forms that permit functional replacement by the insurance company, at the insured's option. Functional replacement means to replace the property with property that performs the same function when replacement with materials of like size, kind, and quality is not possible, necessary, or less costly than obsolete, antique, or custom construction materials and methods. Forms and rating plans may also provide for credits when functional replacement cost coverage is provided. Policies issued in violation of this section are binding upon the company issuing them, but the company is liable for the forfeitures by law prescribed for such violation. (1899, c. 54, ss. 39, 99; 1903, c. 438, s. 10; Rev., s. 4755; C.S., s. 6418; 1949, c. 295, s. 1; 1991, c. 644, s. 5.)

#### **§ 58-43-10. Limit of liability on total loss.**

Subject to the provisions of G.S. 58-43-5, when buildings insured against loss by fire and situated within the State are totally destroyed by fire, the company is not liable beyond the actual cash value of the insured property at the time of the loss or damage; and if it appears that the insured has paid a premium on a sum in excess of the actual value, he shall be reimbursed the proportionate excess of premium paid on the difference between the amount named in the policy and the ascertained values, with interest at six per centum (6%) per annum from the date of issue. (1899, c. 54, s. 40; Rev., s. 4756; C.S., s. 6419; 1949, c. 295, s. 2.)

#### **§ 58-43-15. Policies for the benefit of mortgagees.**

Where by an agreement with the insured, or by the terms of a fire insurance policy taken out by a mortgagor, the whole or any part of the loss thereon is payable to a mortgagee of the property for his benefit, the company shall, upon satisfactory proof of the rights and title of the parties, in

accordance with such terms or agreement, pay all mortgagees protected by such policy in the order of their priority of claim, as their claims appear, not beyond the amount for which the company is liable, and such payments are, to the extent thereof, payment and satisfaction of the liabilities of the company under the policy. Any payment due by the insuring company to mortgagees or loss payees under the terms of the policy shall be made within 90 days of the loss or within 60 days of the filing of proof of loss, whichever is the longer period; provided, the payment of or settlement of the claim of the mortgagee or loss payee under the policy shall in no way constitute an admission of liability as to the insured and the fact of such payment or settlement shall be inadmissible in any action at law. (1899, c. 54, s. 41; Rev., s. 4757; C.S., s. 6420; 1969, c. 1077, s. 1.)

**§ 58-43-20: Repealed by Session Laws 1995 (Regular Session, 1996), c. 752, s. 1.**

**§ 58-43-25. Limitation of fire insurance risks.**

No insurer authorized to do in this State the business of fire insurance shall expose itself to any loss on any one fire risk, whether located in this State or elsewhere, in an amount exceeding ten percent (10%) of its surplus to policyholders, except that in the case of risks adequately protected by automatic sprinklers or risks principally of noncombustible construction and occupancy such insurer may expose itself to any loss on any one risk in an amount not exceeding twenty-five percent (25%) of the sum of (i) its unearned premium reserve and (ii) its surplus to policyholders. Any risk or portion of any risk which shall have been reinsured shall be deducted in determining the limitation of risk prescribed in this section. (1945, c. 378.)

**§ 58-43-30. Agreements restricting agent's commission; penalty.**

It is unlawful for any insurance company doing the business of insurance as defined in subdivisions (3) to (22), inclusive, of G.S. 58-7-15 and employing an agent representing another such company, either directly or through any organization or association, to enter into, make or maintain any stipulation or agreement in anywise limiting the compensation such agent may receive from any such other company or forbidding or prohibiting reinsurance of the risks of any such domestic company in whole or in part by any other company holding membership in or cooperating with such organization or association. The penalty for any violation of this section shall be a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), and the forfeiture of license to do business in this State for a period of 12 months following conviction. (1905, c. 424; Rev., ss. 3491, 4768; 1915, c. 166, ss. 2, 3; C.S., s. 6432; 1945, c. 458; 1985, c. 666, s. 26.)

**§ 58-43-35. Punishment for issuing fire policies contrary to law.**

Any insurance company or agent who makes, issues, or delivers a policy of fire insurance in willful violation of the provisions of Articles 1 through 64 of this Chapter that prohibit a domestic insurance company from issuing policies before obtaining a license from the Commissioner; or that prohibit the issuing of a fire insurance policy for more than the fair value of the property or for a longer term than seven years; or that prohibit stipulations in insurance contracts restricting the jurisdiction of courts, or limiting the time within which an action may be brought to less than one year after the cause of action accrues or to less than six months after a nonsuit by the plaintiff, shall be guilty of a Class 3 misdemeanor and shall, upon conviction, be punished only by a fine of

not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000); but the policy shall be binding upon the company issuing it. (1899, c. 54, s. 99; 1903, c. 438, s. 10; Rev., s. 4832; C.S., s. 6433; 1985, c. 666, s. 27; 1993, c. 539, s. 466; 1994, Ex. Sess., c. 24, s. 14(c); 1999-132, s. 9.2.)

**§ 58-43-40:** Expired.